

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-937

December 29, 2003

MADISON DEPARTMENT OF ELECTRIC WORKS
Request For Approval of Non-Standard Contract
With A Standard Offer Provider

ORDER APPROVING
NON-CONFORMING
STANDARD OFFER
PROVIDER STANDARD
SERVICE AGREEMENT

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

On December 22, 2003, Madison Electric Works (MEW) requested approval of a contract between MEW and Constellation New Energy for the provision of standard offer service. As the contract is a modification to the standard offer standard form contract approved by the Commission,¹ Chapter 322, section 10 of our Rules requires Commission approval of the contract.

Exercising its authority under Chapter 301, § 8(E), MEW conducted its own bidding process to select a standard offer service provider for its service territory. MEW selected Constellation NewEnergy as the winning bidder. In accordance with section 8(E) of the Rule, MEW's selection of Constellation NewEnergy is not subject to Commission approval.

In negotiating a contract with the winning bidder, MEW and Constellation NewEnergy have agreed to a standard offer provider (SOP) standard service agreement that is different than the standard form contract approved by the Commission. When the Commission promulgated the requirement in Chapter 322 that deviations from the standard form contract be approved, it stated:

[T]his approval is warranted to assure that utilities are treating all CEPs fairly and are acting in the interest of their ratepayers.

Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 99-659, Order at 9 (Dec. 17, 1999).

I have reviewed the SOP standard service agreement (dated Jan. 1, 2004) between MEW and Constellation NewEnergy, and find that the variations between the MEW-Constellation contract and the standard form contract are consistent with the requirements of Chapters 322. I also note that the MEW-Constellation contract alternatives to the standard form contract appear consistent with alternatives I have

¹ The current standard form contract was approved by the Director of Technical Analysis on June 26, 2003. *Order Approving Revisions to Standard Offer Standard Form Contract*, Docket No. 2003-370 (June 26, 2003).

approved in bid processes conducted by the Commission. In that regard, however, it is worth noting that the standard form contract is intended to define the business relationship between transmission and distribution (T&D) utilities and a SOP for delivery, metering, billing, and money transfer. The standard form contract, and alternatives approved pursuant to Chapter 322, are not intended to define the provider's legal obligations to provide retail standard offer service. When the Commission conducts standard offer bid processes, it is the Commission's responsibility to ensure that the legal obligation is properly and adequately defined. When a consumer-owned T&D utility conducts its own bid process, such as MEW in this instance, it is the COU's responsibility to properly and adequately define the retail standard offer obligation. My review under Chapter 322, section 10 is therefore limited to a determination of the reasonableness of the variations to the standard provisions defining the T&D – SOP business relationship.

Based upon my findings and subject to the limitation described above, I approve the MEW – Constellation SDP standard service agreement.

By Order of the Director of Technical Analysis

Faith Huntington